

PAUL ALSTON 1126
KRISTIN L. HOLLAND 10063
MICHELLE N. COMEAU 9550
ALSTON HUNT FLOYD & ING
1001 Bishop Street, Suite 1800
Honolulu, Hawai`i 96813
Telephone: (808) 524-1800
Facsimile: (808) 524-4591
E-mail: palston@ahfi.com
kholland@ahfi.com
mcomeau@ahfi.com

LOUIS ERTESCHIK 5241
MATTHEW C. BASSETT 6643
JENNIFER V. PATRICIO 8710
HAWAII DISABILITY RIGHTS CENTER
1132 Bishop Street, Suite 2102
Honolulu, Hawai`i 96813
Telephone: (808) 949-2922
Facsimile: (808) 949-2928
Email: louis@hawaiidisabilityrights.org
mattbassettesq@gmail.com

JASON H. KIM 7128
SCHNEIDER WALLACE COTTRELL BRAYTON
AND KONECKY, LLP
180 Montgomery Street, Suite 2000
San Francisco, California 94104
Telephone: (415) 421-7100
Facsimile: (415) 421-7105
Email: jkim@schneiderwallace.com

Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

E.R.K., by his legal guardian R.K.,
R.T.D., through his parents R.D. and
M.D.; HAWAII DISABILITY
RIGHTS CENTER, in a representative
capacity on behalf of its clients and all
others similarly situated,

Plaintiffs,

Case No. 10-00436 SOM-KSC

**PLAINTIFFS' MOTION FOR
ORDER (1) HOLDING
DEFENDANT DEPARTMENT OF
EDUCATION IN CIVIL
CONTEMPT FOR VIOLATION OF
THE [187] ORDER FOR AWARD
OF COMPENSATORY**

vs.

DEPARTMENT OF EDUCATION,
State of Hawai`i,

Defendant.

**EDUCATION ENTERED ON
AUGUST 22, 2014, (2) IMPOSING
CIVIL SANCTIONS, INCLUDING
APPOINTMENT OF A SPECIAL
MASTER; MEMORANDUM IN
SUPPORT OF MOTION;
DECLARATION OF MICHELLE N.
COMEAU; EXHIBITS “1”- “15”;
CERTIFICATE OF SERVICE**

**PLAINTIFFS’ MOTION FOR ORDER (1) HOLDING
DEFENDANT DEPARTMENT OF EDUCATION IN CIVIL
CONTEMPT FOR VIOLATION OF THE [187] ORDER FOR
AWARD OF COMPENSATORY EDUCATION ENTERED ON
AUGUST 22, 2014, (2) IMPOSING CIVIL SANCTIONS,
INCLUDING APPOINTMENT OF A SPECIAL MASTER**

Plaintiffs E.R.K., by his legal guardian R.K., R.T.D., through his parents R.D. and M.D., each individually and on behalf of all those persons similarly situated, and HAWAII DISABILITY RIGHTS CENTER, in a representative capacity on behalf of its clients and all others similarly situated (collectively, “Plaintiffs”), by and through their attorneys, Alston Hunt Floyd & Ing (“AHFI”) and Hawai`i Disability Rights Center (“HDRC”) (together, “Class Counsel”), respectfully request an order for contempt and civil sanctions against Defendant Department of Education (“DOE”).

This Motion is brought on the grounds that the DOE violated this Court’s August 22, 2014 Court Order (ECF No. 187). Plaintiffs request that the Court issue an order holding the DOE in contempt of court and imposing civil

sanctions. Plaintiffs also request that the Court order the DOE to pay Plaintiffs reasonable compensation and its attorneys' fees incurred in bringing this motion.

Plaintiffs therefore move this Honorable Court as follows:

1. For an order finding the DOE in contempt;
2. For an order appointing a special master to remedy the DOE's contempt;
3. For an order imposing other sanctions as the Court deems appropriate; and
4. For an order awarding Plaintiffs their attorneys' fees and costs to the extent allowed by law.

This Motion is brought pursuant to Rule 7 of the Federal Rules of Civil Procedure and is based upon the attached declarations, exhibits, the Order, and such other and further matters that may be presented prior to and at the hearing on this Motion, all of which are incorporated herein by this reference.

DATED: Honolulu, Hawai`i, February 2, 2016.

/s/ Michelle N. Comeau
PAUL ALSTON
KRISTIN L. HOLLAND
MICHELLE N. COMEAU
Attorneys for Plaintiffs